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9
10 IN THE UNITED STATES BANKRUPTCY COURT
11
12 IN AND FOR THE DISTRICT OF ARIZONA

13 In Re) In Proceedings Under
14 JIN HO and JEANETTE LING HO,) Chapter 11
15) Case No. 2:14-bk-07642 MCW
16 Reorganized Debtors.)) Adv. Case No.
17 _____)
18 JIN HO,) COMPLAINT FOR TURNOVER OF
19 Plaintiff,) PROPERTY OF THE ESTATE AND
20 vs) ORDER TO SHOW CAUSE
21)
22 WALLACE AU, as Trustee of the Betty L.)
23 Ho Revocable Trust)
24)
25 Defendants.)
26 _____)
27
28

29 Plaintiff, by its undersigned attorney states for his Complaint as follows:

30 1. Plaintiff is the Reorganized Debtor in the above referenced Chapter 11
31 proceeding.

32 2. This Court has jurisdiction over this matter pursuant to 11 U.S.C. §542
33 and 11 U.S.C. §§157 and 1334; Rules 7001 through 7087 of the Federal Rules of
34 Bankruptcy Procedure.

3. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), (E), (L) and (O).

4. Venue is proper in this core proceeding pursuant to 28 U.S.C. §1409(a).

5. Defendant, Wallace Au is the Trustee of the Betty L. Ho Revocable Trust and this adversary is against Wallace Au, as Trustee of the identified Trust and not in his individual capacity.

BACKGROUND

6. On May 20, 2014, Reorganized Debtors, Jin Ho and Jeanette Ling Ho filed a voluntary proceeding under Chapter 11 of the U.S. Bankruptcy Code.

7. On June 16, 2014, Reorganized Debtors filed their bankruptcy schedules (Dkt 28) and identified the following in Schedule B(19);

“Husband was a named beneficiary of his mother’s “Betty L. Ho Trust”. The assets of the Trust have now been distributed and the Trust Administrator is winding it down.”

Reorganized Debtor, Jin Ho's interest as a "beneficiary of the Trust" is property of the estate pursuant to 11 U.S.C. §541.

8. On May 18, 2017, this Court Confirmed the Reorganized Debtors' Second Amended Plan of Reorganization (Dkt 200). The Confirmation Order included the appointment of James Cross as a "Liquidation Agent" solely for the purpose of selling property located in Hawaii to which Jin Ho has an interest by way of the Trust.

9. On September 17, 2018, this Court awarded Reorganized Debtors' Motion for Final Decree (Dkt 240). The Order for Final Decree expressly stated:

“IT IS FURTHER ORDERED that the Court will retain jurisdiction to hear any matter that may arise after an Order closing this case is entered, including but not limited to retaining jurisdiction over the “Hawaii Land”

1 and the "Hawaii Land Payment" as described in the Second Amended
2 Plan, at Docket 161. It shall further retain jurisdiction over the
3 appointment and services to be performed by the Liquidation Agent as
4 also described in the Second Amended Plan and the Order Confirming
the Second Amended Plan at Docket 200."

5 **BETTY L. HO REVOCABLE TRUST**

6 10. On or about November 23, 1991, Jin Ho's mother created the "Betty L.
7 Ho Revocable Trust". The Trust was amended from time to time as follows:

- 8 a. First Amendment to Betty L. Ho Revocable Trust, dated August 18,
9 2005;
10 b. Second Amendment to Betty L. Ho Revocable Trust, dated March 23,
11 2006; and
12 c. Third Amendment to Betty L. Ho Revocable Trust, dated April 13, 2006.

13 11. The referenced Third Amendment to Betty L. Ho Revocable Trust
14 provided:

15 "4. The nine (9) parcels of real property located on Kauai, Hawai'i,
16 T.M.K. Nos. (4) -1-9-10-25, (4) -1-9-10-26, (4) -1-9-10-27, (4) 1-9-10-
17 29, (4) -1-9-10-48, (4) -1-9-10-49, (4) -1-9-12-10, (4) -1-9-12-34, and (4)
18 1-9-12-57 to Jin W. Ho, or if he should fail to survive the termination of
19 the Trust, this distribution shall lapse and be added to the residuary
20 estate."

21 12. Betty L. Ho Revocable Trust holds an undivided twenty-five percent
22 (25%) interest in the parcels described in Paragraph 11 above. The other interest
23 holders are as follows:
24
25

- a. Chang Family: Jo-Ann, Lin-Ann and Kai as a twenty-five percent (25%) undivided interest;
 - b. Au Family: Wallace, Leslie, Joe and Duane as a twenty-five percent (25%) undivided interest; and
 - c. Pang Family: Cyril, Eldon, Dane and Tracy as a twenty-five percent (25%) undivided interest.

13. Betty L. Ho died on May 14, 2006, and Jin Ho survived his mother's death and is the sole remaining beneficiary of his mother's "Trust" property in regard to the properties described in Paragraph 11 above.

14. Despite repeated demands, Wallace Au, as the Trustee of the Betty L. Ho Revocable Trust (now Irrevocable) has failed and refused to convey the real estate interest, so designated in the Trust documents, from the Trust to Jin Ho.

15. On March 20, 2023, Reorganized Debtors' counsel advanced the sum of \$2,880.00 (as costs) to attorney Michael D. Scarbo (Hawaii counsel) to assist Wallace Au, as Trustee, in transferring the property interest under the laws of Hawaii (see attached Exhibit "A"). Mr. Au has failed to cooperate with Mr. Scarbo.

ORDER TO SHOW CAUSE

16. Plaintiff realleges all allegations contained in Paragraphs 1 through 15 above.

17. Based on the Complaint, Plaintiff request, that the court issue its Order to Show Cause directing Defendant, Wallace Au, as Trustee of the Betty L. Ho Revocable Trust, to appear before this Court on a date and time certain and then and there show cause as to why he should not immediately and without further delay, transfer the real

1 estate interest described in Paragraph 11 above to Jin Ho, as the Reorganized Debtor and
2 pursuant to the provisions of the Order of Confirmation.

3 WHEREFORE, Plaintiff request an immediate Order to Show Cause be issued to
4 Wallace Au, as Trustee of the Betty L. Ho Revocable Trust, as to why the transfer deeds
5 from the Trust to Jin Ho have not been completed; and

6
7 To the extent this Complaint and Order to Show Cause is contested, all
8 reasonable attorneys' fees and any additional amounts or relief from this Court as may
9 be justified and appropriate.

10
11 DATED this 8th day of June, 2023.

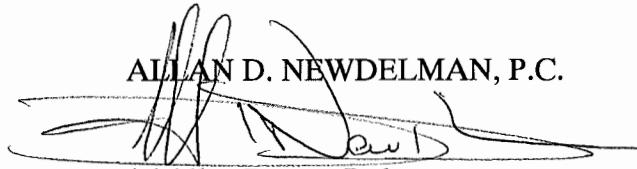
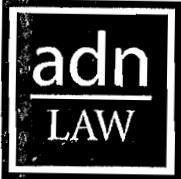
12
13 ALLAN D. NEWDELMAN, P.C.
14 
15 /s/ Allan D. NewDelman
16 Allan D. NewDelman, Esq.
17 Attorney for the Reorganized Debtors

EXHIBIT “A”



ALLAN D. NEWDELMAN, P.C.

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Roberta J. Sunkin

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March 20, 2023

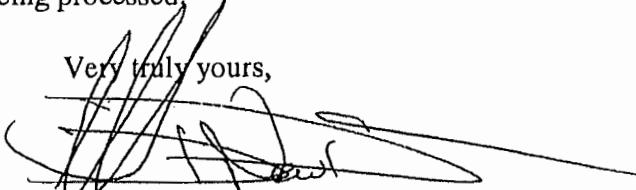
Michael D. Scarbo, Esq.
JM Law, LLLC
4442 Hardy Street
Suite 201
Lihue, Hawaii 96766

Re: Betty Ho Trust Transfer

Dear Mike:

Enclosed please find my firm's business check in the sum of \$2,880.00 to cover the expenses of nine (9) transfers by Deed from the Betty Ho Trust to Jin Ho. These funds are a cost advance on behalf of Jin Ho and the bankruptcy estate of Jin Ho under case number 2:14-bk-07642 MCW. Please keep my office posted as this matter is being processed.

Very truly yours,


Allan D. NewDelman

ADN/cmp
Enclosure

cc: James Cross, Esq.
Jin Ho
Wallace Au
(all via email)

ALLAN D NEWDELMAN P.C.
ATTORNEY AT LAW
80 E COLUMBUS AVE
PHOENIX, AZ 85012-2334

30467

91-170/1221 AZ
32195

DATE 3/20/2023

PAY
TO THE
ORDER OF

Michael Scarbo \$ 2880⁰⁰
Two Thous and Eight Hun dr Offiging ad DOLLARS 
BANK OF AMERICA 
ACH R/T 122101708

FOR Betty Ho Transfer of 9 Deeds

Case 2:14-bk-07642-MCW Doc 244 Filed 06/08/23 Entered 06/08/23 13:58:11 Desc

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